

## Environmental Protection Agency

## § 49.169

(ii) Where coverage is optional, provide for notice to the reviewing authority of the source's election to be covered by the rule or general permit and

(iii) Specify the enforcement consequences relevant to the rule or general permit.

*Environmental Appeals Board* means the Board within the EPA described in § 1.25(e) of this chapter.

*Indian country*, as defined in 18 U.S.C. 1151, means the following:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;<sup>1</sup>

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a state and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

*Indian governing body* means the governing body of any Tribe, band or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

*Reviewing authority* means the Administrator or an Indian Tribe in cases where a Tribal agency is assisting EPA with administration of the program through a delegation under § 49.173.

*Synthetic minor HAP source* means a source that otherwise has the potential to emit HAPs in amounts that are at or above those for major sources of HAP in § 63.2 of this chapter, but that has taken a restriction such that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

*Synthetic minor source* means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources in Appendix S, but that has taken a restriction such that its

potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

### § 49.168 Does this program apply to me?

(a) In a nonattainment area for a pollutant in Indian country, the requirements of this program apply to you under either of the following circumstances:

(1) If you propose to construct a new major source (as defined in part 51, Appendix S, paragraph II.A.4 of this chapter) of the nonattainment pollutant.

(2) If you propose to construct a major modification at your existing major source (as defined in part 51, Appendix S, paragraph II.A.5 of this chapter), where your source is a major source of the nonattainment pollutant and the proposed modification is a major modification for the nonattainment pollutant.

(b) If you own or operate a major source with a state-issued nonattainment major NSR permit, you must apply to convert such permit to a Federal permit under this program by September 4, 2012.

(c) If you propose to establish a synthetic minor source or synthetic minor HAP source or to construct a minor modification at your major source, you will have to comply with the requirements of the Federal minor NSR program in Indian country at §§ 49.151 through 49.165 or other EPA-approved minor NSR program, as applicable.

### § 49.169 Permit approval criteria.

(a) *What are the general criteria for permit approval?* The general review criteria for permits are provided in part 51, Appendix S, paragraph II.B of this chapter. In summary, that paragraph basically requires the reviewing authority to ensure that the proposed new major source or major modification would meet all applicable emission requirements in the EPA-approved implementation plan or FIP, any applicable new source performance standard in part 60 of this chapter and any applicable national emission standards for hazardous air pollutants in part 61 or part 63 of this chapter, before a permit can be issued.

<sup>1</sup>Under this definition, EPA treats as reservations trust lands validly set aside for the use of a tribe even if the trust lands have not been formally designated as a reservation.